

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

TIA WAGNER

Plaintiff,

v.

**FEDERAL NATIONAL MORTGAGE
a/k/a FANNIE MAC, DALLAS COUNTY,
TEXAS, and DESOTO CITY HALL,
TEXAS,**

Defendants.

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Civil Action No. 3:16-cv-820

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446(a), Defendant Federal National Mortgage Association a/k/a Fannie Mae (“Fannie Mae” or Defendant”)¹ files this notice of the removal of this action from the 162nd Judicial District Court for Dallas County, Texas. Defendant submits this Notice in support of removal. Removal is based on federal question jurisdiction. Defendant respectfully shows as follows:

INTRODUCTION

1. On or about February 26, 2016, Plaintiff filed her *Plaintiff’s Original Petition for Violation of 15 U.S.C. 1692 et seq.* [sic] and *Affidavit for Immediate Temporary Restraining Order and Temporary Injunction Supported by Affiant Uncontested Affidavit* (the “Petition”), bearing Cause No. DC-16-02255, in the 162nd Judicial District Court, Dallas County, Texas and styled *Tia Wagner v. Federal National Mortgage a/k/a Fannie Mac, Dallas County, Texas, and*

¹ Incorrectly named in the style of Plaintiff’s Petition as “Federal National Mortgage a/k/a Fannie Mac” and in the body of Plaintiff’s Petition as “Federal National Mortgage a/k/a Fannie Mae.” Federal National Mortgage Association a/k/a Fannie Mae is appearing herein in its correct capacity and is defending all claims against “Federal National Mortgage a/k/a Fannie Mac” and “Federal National Mortgage a/k/a Fannie Mae.”

Desoto City Hall, Texas (the “State Court Action”). A true and correct copy of the Docket Sheet from the State Court Action is attached hereto as Exhibit A. In accordance with 28 U.S.C. Section 1446(a), copies of all process, pleadings, and orders served in the State Court Action, including the Petition, are attached hereto within the contents of Exhibit B.

2. The allegations in the Petition relate to a deed of trust and foreclosure proceedings on the real property located at 515 Anglebluff Drive, Desoto, Texas 75115 (the “Subject Property”). (See Petition at ¶6.) In the Petition, Plaintiff asserts claims for “Authentic Evidence Submitted with Petition,” violations of the Deceptive Trade Practices Act (“DTPA”), violations of the federal Fair Debt Collection Practices Act (“FDCPA”), and declaratory judgment. (*Id.* at ¶¶11-15.) For these alleged wrongs, Plaintiff seeks an injunction against Defendants taking possession of the Subject Property, actual damages, punitive damages, a declaration that Defendants must produce the original promissory note, a declaration that attempted foreclosure is a debt collection activity under the FDCPA, and exemplary damages. (*Id.* at Prayer.)

3. This Notice of Removal is timely because thirty (30) days have not expired since the State Court Action was filed, making removal proper in accordance with 28 U.S.C. Section 1446(b).

4. Consent to removal by the City of Desoto, Texas, is attached as Exhibit C.

5. Consent to removal is not required from Defendant Dallas County, Texas because it has not been served or appeared in this action. (Exhibit B-5.) See *Griffioen v. Cedar Rapids & Iowa City Ry. Co.*, 785 F.3d 1182, 1187 (8th Cir. 2015)(singled consent to removal is required from each properly joined and served defendant); see also 28 U.S.C. § 1446(b)(2)(A).

6. This action is removable to federal court pursuant to 28 U.S.C. Section 1441

because it could have been filed originally in this Court pursuant to federal question jurisdiction conferred by 28 U.S.C. Section 1331.

BASIS FOR REMOVAL: FEDERAL QUESTION JURISDICTION

6. This action arises under and presents substantial questions of federal law. Specifically, Plaintiff allege Defendants violated the FDCPA, codified at 15 U.S.C. Section 1601, *et seq.* (Petition at ¶¶13-14.) Because this action arises under the laws of the United States, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. Section 1331, and removal of this entire cause is therefore proper under 28 U.S.C Section 1441(c). The Court has supplemental jurisdiction over Plaintiff's state law claims. 28 U.S.C. § 1367.

VENUE

7. Venue for removal is proper in this district and division, the United States District Court for the Northern District of Texas, Dallas Division, under 28 U.S.C. Section 1441(a) because this district and division embrace the 162nd Judicial District Court, Dallas County, Texas, the forum in which the removed action was pending.

NOTICE

8. Pursuant to 28 U.S.C. Section 1446(d), a copy of this Notice is being filed with the Clerk of Court for the 162nd Judicial District, Dallas County, Texas.

9. The contents of Exhibit B constitute the entire file of the State Court Action.

CONCLUSION

For the reasons described above, Defendant respectfully requests this Court take jurisdiction over this matter and proceed as if it had been originally filed herein.

Respectfully submitted,

By: /s/ Mark D. Cronenwett

MARK D. CRONENWETT

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**ATTORNEYS FOR FEDERAL
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A/K/A FANNIE MAE**

List of all Counsel of Record

For Plaintiff:

Pro se
Tia Wagner
515 Anglebluff Drive
Desoto, TX 75115
(214) 200-6149

For Defendant Federal National Mortgage Association a/k/a Fannie Mae:

Mark D. Cronenwett
Texas Bar No. 00787303
Mackie Wolf Zientz & Mann, P. C.
14160 North Dallas Parkway, Ste. 900
Dallas, TX 75254
(214) 635-2650
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For Defendant Dallas County, Texas:

Unknown.

**For Defendant City of Desoto, Texas,
incorrectly named Desoto City Hall, Texas:**

Peter G. Smith
Texas Bar No. 18664300
Braden W. Metcalf
Texas Bar No. 24055969
Nichols, Jackson, Dillard, Hager & Smith, LLP
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Dallas, TX 75201
(214) 968-9900
(214) 965-0010 (Fax)

INDEX OF DOCUMENTS ATTACHED

- Exhibit A Copy of the Docket Sheet for Cause No. DC-16-02255 in the 162nd Judicial District Court, Dallas County, Texas;
- Exhibit B Pleadings in Cause No. DC-16-02255 in the 162nd Judicial District Court, Dallas County, Texas;
- B-1 Plaintiff's Original Petition for Violation of 15 U.S.C. 1692 et seq, [sic] and Affidavit for Immediate Temporary Restraining Order and Temporary Injunction Supported by Affiant Uncontested Affidavit, filed February 26, 2016;
- B-2 Affidavit for Tia Wager supporting suit, filed February 26, 2016;
- B-3 Civil Case Information Sheet, filed February 26, 2016;
- B-4 Citation issued, Federal National Mortgage, issued February 26, 2016, served February 7, 2016², returned March 11, 2016;
- B-5 Citation issued, Dallas County, Texas, issued February 26, 2016, returned unexecuted March 10, 2016;
- B-6 Citation issued, Desoto City Hall, Texas, issued February 26, 2016, served March 7, 2015, returned March 11, 2016;
- B-7 Notice of Emergency Hearing, March 15, 2016; and
- Exhibit C Consent to Removal.

² Defendant denies is was properly served in the State Court Action.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served in the manner indicated below on this 23rd day of March, 2016, upon the following:

Via Regular U.S. Mail and Certified Mail

Tia Wagner
515 Anglebluff Drive
Desoto, TX 75115

Via Regular U.S. Mail

Peter G. Smith
Braden W. Metcalf
Nichols, Jackson, Dillard, Hager & Smith, LLP
1800 Ross Tower
500 N. Akard St.
Dallas, TX 75201

/s/ Mark D. Cronenwett

MARK D. CRONENWETT